

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SENATE CONCURRENT RESOLUTION 1031**

### **A CONCURRENT RESOLUTION**

**ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO  
PUBLIC PROGRAM ELIGIBILITY.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of  
2 Representatives concurring:

3 1. Under the power of the referendum, as vested in the Legislature,  
4 the following measure, relating to public program eligibility, is enacted to  
5 become valid as a law if approved by the voters and on proclamation of the  
6 Governor:

7 AN ACT

8 AMENDING SECTIONS 15-191.01, 15-232, 15-1802, 46-801 AND 46-803,  
9 ARIZONA REVISED STATUTES; RELATING TO PUBLIC PROGRAM  
10 ELIGIBILITY.

11 Be it enacted by the Legislature of the State of Arizona:

12 Section 1. Section 15-191.01, Arizona Revised Statutes,  
13 is amended to read:

14 15-191.01. Family literacy program; procedures;  
15 curriculum; eligibility plan

16 A. The family literacy program is established in the  
17 state board of education through the division of early childhood  
18 education programs to increase the basic academic and literacy  
19 skills of eligible parents and their preschool children in  
20 accordance with this article. The state board of education  
21 shall establish family literacy projects as part of the overall  
22 program at locations where there is a high incidence of economic  
23 and educational disadvantage as determined by the state board of  
24 education in consultation with the department of economic  
25 security and, as appropriate, other state agencies.

26 B. The state board of education shall adopt procedures  
27 necessary to implement the family literacy program.

28 C. The state board of education shall establish  
29 guidelines for requiring family literacy program participants to  
30 engage in community service activities in exchange for benefits  
31 received from the program. Participants shall be allowed to  
32 choose from a variety of community and faith-based service  
33 providers that are under contract with the department to provide  
34 community service opportunities or program services.  
35 Participants shall be allowed and encouraged to engage in  
36 community services within their own communities. Participants  
37 shall be allowed to fulfill the requirements of this subsection  
38 by providing community services to the program from which they  
39 received services.

40 D. The state board of education shall submit an annual  
41 report by December 31 to the governor, the speaker of the house  
42 of representatives and the president of the senate regarding the  
43 community service activities of family literacy program  
44 participants pursuant to subsection C, including information on  
45 the number of participants, the types of community service

1 performed and the number of hours spent in community service  
2 activities.

3 E. Local education agencies and adult education programs  
4 funded by the department of education are eligible for grants if  
5 the state board of education determines that a high percentage  
6 of adults in the county, the local school district or the  
7 targeted local school service area have not graduated from high  
8 school. Selection criteria for grant awards shall include at a  
9 minimum the educational needs of the adult population, the  
10 incidence of unemployment in the county, district or local  
11 targeted school service area, the degree to which community  
12 collaboration and partnership demonstrate the ability to bring  
13 additional resources to the program and the readiness and  
14 likelihood of the proposing organizations to establish a  
15 successful family literacy project.

16 F. Each project team shall include representatives from  
17 each of the following:

18 1. One or more local school districts or the county  
19 school superintendent's office.

20 2. An adult education provider funded by the division of  
21 adult education or a provider that complies with the policies,  
22 academic standards, performance outcomes, assessment and data  
23 collection requirements of adult education as prescribed by the  
24 division of adult education.

25 3. A private or public early childhood education  
26 provider.

27 4. Any other social service, governmental or private  
28 agency that may provide assistance for the planning and  
29 operation of the project.

30 G. In addition to the grants prescribed in subsection H,  
31 the state board of education shall authorize two grants to  
32 existing literacy programs in this state that can offer training  
33 and serve as models and training resources for the establishment  
34 and expansion of other programs throughout this state. Existing  
35 literacy programs shall submit a grant application to the state  
36 board of education in the same manner as prescribed in  
37 subsection K.

38 H. The state board of education shall authorize  
39 additional grants through the division of early childhood  
40 education programs in areas of educational and economic need.

41 I. Selected projects shall use either:

42 1. A nationally recognized family literacy model such as  
43 models developed by the national center for family literacy or  
44 its successor.

1           2. A model that, in the determination of the project team  
2 and the state board of education, is superior to a nationally  
3 recognized family literacy model.

4           J. Eligible parents shall be instructed in adult basic  
5 education and general educational development. Preschool  
6 children shall receive instruction in developmentally  
7 appropriate early childhood programs. Other planned, structured  
8 activities involving parents and children in learning activities  
9 may be established as a part of the curriculum.

10          K. Each grant application shall include a plan to address  
11 at least the following:

12           1. Identification and recruitment of eligible parents and  
13 children.

14           2. Screening and preparation of parents and children for  
15 participation in the family literacy program.

16           3. Instructional programs and assessment practices that  
17 promote academic and literacy skills and that equip parents to  
18 provide needed support for the educational growth and success of  
19 their children.

20           4. A determination that at least ten but no more than  
21 twenty parents with children will be eligible for and be  
22 enrolled in the family literacy program at all times, or that  
23 the family literacy programs shall document efforts to  
24 continually recruit eligible families.

25           5. Provision of child care through either private or  
26 public providers.

27           6. A transportation plan for participants.

28           7. An organizational partnership involving at a minimum a  
29 common school, a private or publicly funded preschool provider  
30 and an adult education program funded by the department of  
31 education or by an outside funding source.

32           L. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE,  
33 RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN.

34           M. THE STATE BOARD OF EDUCATION SHALL REPORT ON DECEMBER  
35 31 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET  
36 COMMITTEE THE TOTAL NUMBER OF PARENTS WHO APPLIED TO PARTICIPATE  
37 IN A PROGRAM UNDER THIS ARTICLE AND THE TOTAL NUMBER OF PARENTS  
38 WHO WERE NOT ELIGIBLE UNDER THIS ARTICLE BECAUSE THE PARENT WAS  
39 NOT AN ELIGIBLE PARENT AS DEFINED IN SECTION 15-191, PARAGRAPH  
40 1, SUBDIVISION (c).

41          Sec. 2. Section 15-232, Arizona Revised Statutes, is  
42 amended to read:

43           15-232. Division of adult education; duties

44           A. There is established a division of adult education  
45 within the department of education, under the jurisdiction of

the state board ~~for vocational and technological~~ OF education,  
which shall:

1. Prescribe a course of study for adult education in school districts.

2. Make available and supervise the program of adult education in other institutions and agencies of this state.

3. Adopt rules for the establishment and conduct of classes for immigrant and adult education, including the teaching of English to foreigners, in school districts.

4. Devise plans for establishment and maintenance of classes for immigrant and adult education, including the teaching of English to foreigners, stimulate and correlate the Americanization work of various agencies, including governmental, and perform such other duties as may be prescribed by the state board of education and the superintendent of public instruction.

5. Prescribe a course of study to provide training for adults to continue their basic education to the degree of passing a general equivalency diploma test or an equivalency test approved by the state board of education.

B. THE DEPARTMENT OF EDUCATION SHALL PROVIDE CLASSES UNDER THIS SECTION ONLY TO ADULTS WHO ARE CITIZENS OR LEGAL RESIDENTS OF THE UNITED STATES OR ARE OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES. THIS SUBSECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN.

C. THE DEPARTMENT OF EDUCATION SHALL REPORT ON DECEMBER 31 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF ADULTS WHO APPLIED FOR INSTRUCTION AND THE TOTAL NUMBER OF ADULTS WHO WERE DENIED INSTRUCTION UNDER THIS SECTION BECAUSE THE APPLICANT WAS NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED STATES OR WAS NOT OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES.

Sec. 3. Section 15-1802, Arizona Revised Statutes, is amended to read:

15-1802. In-state student status

A. Except as otherwise provided in this article no person having a domicile elsewhere than in this state is eligible for classification as an in-state student for tuition purposes.

B. A person is not entitled to classification as an in-state student until the person is domiciled in this state for one year, except that a person whose domicile is in this state is entitled to classification as an in-state student if the person meets one of the following requirements:

1           1. The person's parent's domicile is in this state and  
2 the parent is entitled to claim the person as an exemption for  
3 state and federal tax purposes.

4           2. The person is an employee of an employer that  
5 transferred the person to this state for employment purposes or  
6 the person is the spouse of such an employee.

7           3. The person is an employee of a school district in this  
8 state and is under contract to teach on a full-time basis or is  
9 employed as a full-time noncertified classroom aide at a school  
10 within that school district. For the purposes of this  
11 paragraph, the person is eligible for classification as an  
12 in-state student only for courses necessary to complete the  
13 requirements for certification by the state board of education  
14 to teach in a school district in this state. No member of the  
15 person's family is eligible for classification as an in-state  
16 student if the person is eligible for classification as an  
17 in-state student pursuant to this paragraph, unless the family  
18 member is otherwise eligible for classification as an in-state  
19 student pursuant to this section.

20          4. The person's spouse has established domicile in this  
21 state for at least one year and has demonstrated intent and  
22 financial independence and is entitled to claim the student as  
23 an exemption for state and federal tax purposes or the person's  
24 spouse was temporarily out of state for educational purposes,  
25 but maintained a domicile in this state. If the person is a  
26 noncitizen, the person must be in an eligible visa status  
27 pursuant to federal law to classify as an in-state student for  
28 tuition purposes.

29          C. The domicile of an unemancipated person is that of the  
30 person's parent.

31          D. Any unemancipated person who remains in this state  
32 when the person's parent, who had been domiciled in this state,  
33 removes from this state is entitled to classification as an  
34 in-state student until attainment of the degree for which  
35 currently enrolled, as long as the person maintains continuous  
36 attendance.

37          E. A person who is a member of the armed forces of the  
38 United States and who is stationed in this state pursuant to  
39 military orders or who is the spouse or a dependent child as  
40 defined in section 43-1001 of a person who is a member of the  
41 armed forces of the United States and who is stationed in this  
42 state pursuant to military orders is entitled to classification  
43 as an in-state student. The student, while in continuous  
44 attendance toward the degree for which currently enrolled, does  
45 not lose in-state student classification.

1 F. A person who is a member of the armed forces of the  
2 United States or the spouse or a dependent as defined in section  
3 43-1001 of a member of the armed forces of the United States is  
4 entitled to classification as an in-state student if the member  
5 of the armed forces has claimed this state as the person's state  
6 of legal residence for at least twelve consecutive months before  
7 the member of the armed forces, spouse or dependent enrolls in a  
8 university under the jurisdiction of the Arizona board of  
9 regents or a community college under the jurisdiction of a  
10 community college district governing board. For the purposes of  
11 this subsection, the requirement that a person be domiciled in  
12 this state for one year before enrollment to qualify for  
13 in-state student classification does not apply.

14 G. A person who is honorably discharged from the armed  
15 forces of the United States shall be granted immediate  
16 classification as an in-state student on honorable discharge  
17 from the armed forces and, while in continuous attendance toward  
18 the degree for which currently enrolled, does not lose in-state  
19 student classification if the person has met all of the  
20 following requirements:

21 1. Declared Arizona as the person's legal residence with  
22 the person's branch of service at least one year prior to  
23 discharge from the armed forces.

24 2. Demonstrated objective evidence of intent to be a  
25 resident of Arizona which, for the purposes of this section,  
26 includes at least one of the following:

- 27 (a) An Arizona driver license.  
28 (b) Arizona motor vehicle registration.  
29 (c) Employment history in Arizona.  
30 (d) Arizona voter registration.  
31 (e) Transfer of major banking services to Arizona.  
32 (f) Change of permanent address on all pertinent records.  
33 (g) Other materials of whatever kind or source relevant  
34 to domicile or residency status.

35 3. Filed an Arizona income tax return with the department  
36 of revenue during the previous tax year.

37 H. A person who is a member of an Indian tribe recognized  
38 by the United States department of the interior whose  
39 reservation land lies in this state and extends into another  
40 state and who is a resident of the reservation is entitled to  
41 classification as an in-state student.

42 J. A PERSON WHO IS WITHOUT LAWFUL IMMIGRATION STATUS IS  
43 ENTITLED TO CLASSIFICATION AS AN IN-STATE STUDENT IF ALL OF THE  
44 FOLLOWING APPLY:

1           1. THE PERSON ATTENDED PUBLIC SCHOOL IN THIS STATE FOR AT  
2 LEAST SIX YEARS.

3           2. THE PERSON GRADUATED FROM A PUBLIC HIGH SCHOOL IN THIS  
4 STATE.

5           3. THE PERSON'S PARENT FILED AN INCOME TAX RETURN IN THIS  
6 STATE FOR THE SIX TAXABLE YEARS THAT PRECEDE THE PERSON'S  
7 ENROLLMENT IN A COMMUNITY COLLEGE OR UNIVERSITY IN THIS STATE.

8           Sec. 4. Section 46-801, Arizona Revised Statutes, is  
9 amended to read:

10           46-801. Definitions

11           In this chapter, unless the context otherwise requires:

12           1. "Caretaker relative" means a relative who exercises  
13 responsibility for the day-to-day physical care, guidance and  
14 support of a child who physically resides with the relative and  
15 who is by affinity or consanguinity or by court decree a  
16 grandparent, great-grandparent, sibling of the whole or half  
17 blood, stepbrother, stepsister, aunt, uncle, great-aunt, great-  
18 uncle or first cousin.

19           2. "Cash assistance" has the same meaning prescribed in  
20 section 46-101.

21           3. "Child" means a person who is under thirteen years of  
22 age.

23           4. "Child care" means the compensated service that is  
24 provided to a child who is unaccompanied by a parent or guardian  
25 during a portion of a twenty-four hour day.

26           5. "Child care assistance" means any money payments for  
27 child care services that are paid by the department and that are  
28 paid for the benefit of an eligible family.

29           6. "Child care home provider" means a person who is at  
30 least eighteen years of age, who is not the parent, guardian,  
31 caretaker relative or noncertified relative provider of a child  
32 needing child care and who is certified by the department to  
33 care for four or fewer children for compensation with child care  
34 assistance monies.

35           7. "Child care providers" means child care facilities  
36 licensed pursuant to title 36, chapter 7.1, article 1, child  
37 care group homes certified pursuant to title 36, chapter 7.1,  
38 article 4, child care home providers, in-home providers,  
39 noncertified relative providers and regulated child care on  
40 military installations or for federally recognized Indian  
41 tribes.

42           8. "Eligible family" means CITIZENS OR LEGAL RESIDENTS OF  
43 THE UNITED STATES OR INDIVIDUALS WHO ARE OTHERWISE LAWFULLY  
44 PRESENT IN THE UNITED STATES AND WHO ARE parents, legal  
45 guardians or caretaker relatives with legal residence in this

1 state and children in their care who meet the eligibility  
2 requirements for child care assistance.

3 9. "Federal poverty level" means the poverty guidelines  
4 that are issued by the United States department of health and  
5 human services pursuant to section 673(2) of the omnibus budget  
6 reconciliation act of 1981 and that are reported annually in the  
7 federal register.

8 10. "In-home provider" means a provider who is certified  
9 by the department to care for a child of an eligible family in  
10 the child's own home and is compensated with child care  
11 assistance monies.

12 11. "Noncertified relative provider" means a person who is  
13 at least eighteen years of age, who provides child care services  
14 to an eligible child, who is by affinity or consanguinity or by  
15 court decree the grandparent, great-grandparent, sibling not  
16 residing in the same household, aunt, great-aunt, uncle or  
17 great-uncle of the eligible child and who meets the department's  
18 requirements to be a noncertified relative provider.

19 12. "Parent" or "parents" means the natural or adoptive  
20 parents of a child.

21 Sec. 5. Section 46-803, Arizona Revised Statutes, is  
22 amended to read:

23 46-803. Eligibility for child care assistance

24 A. The department shall provide child care assistance to  
25 eligible families who are attempting to achieve independence  
26 from the cash assistance program and who need child care  
27 assistance in support of and as specified in their personal  
28 responsibility agreement pursuant to chapters 1 and 2 of this  
29 title.

30 B. The department shall provide child care assistance to  
31 eligible families who are transitioning off of cash assistance  
32 due to increased earnings or child support income in order to  
33 accept or maintain employment. Eligible families must request  
34 this assistance within six months after the cash assistance case  
35 closure. Child care assistance may be provided for up to  
36 twenty-four months after the case closure and shall cease  
37 whenever the family income exceeds one hundred sixty-five per  
38 cent of the federal poverty level.

39 C. The department shall provide child care assistance to  
40 eligible families who are diverted from cash assistance pursuant  
41 to section 46-298 in order to obtain or maintain employment.  
42 Child care assistance may be provided for up to twenty-four  
43 months after the case closure and shall cease whenever the  
44 family income exceeds one hundred sixty-five per cent of the  
45 federal poverty level.

1           D. The department may provide child care assistance to  
2 support eligible families with incomes of one hundred sixty-five  
3 per cent or less of the federal poverty level to accept or  
4 maintain employment. Priority for this child care assistance  
5 shall be given to families with incomes of one hundred per cent  
6 or less of the federal poverty level.

7           E. The department may provide child care assistance to  
8 families referred by child protective services and to children  
9 in foster care pursuant to title 8, chapter 5 to support child  
10 protection.

11          F. The department may provide child care assistance to  
12 special circumstance families whose incomes are one hundred  
13 sixty-five per cent or less of the federal poverty level and who  
14 are unable to provide child care for a portion of a twenty-four  
15 hour day due to a crisis situation of domestic violence or  
16 homelessness, or a physical, mental, emotional or medical  
17 condition, participation in a drug treatment or drug  
18 rehabilitation program or court ordered community restitution.  
19 Priority for this child care assistance shall be given to  
20 families with incomes of one hundred per cent or less of the  
21 federal poverty level.

22          G. In lieu of the employment activity required in  
23 subsection B, C or D of this section, the department may allow  
24 eligible families with teenaged custodial parents under twenty  
25 years of age to complete a high school diploma or its equivalent  
26 or engage in remedial education activities reasonably related to  
27 employment goals.

28          H. The department may provide supplemental child care  
29 assistance for department approved education and training  
30 activities if the eligible parent, legal guardian or caretaker  
31 relative is working at least a monthly average of twenty hours  
32 per week and this education and training are reasonably related  
33 to employment goals. The eligible parent, legal guardian or  
34 caretaker relative must demonstrate satisfactory progress in the  
35 education or training activity.

36          I. Beginning March 12, 2003, the department shall  
37 establish waiting lists for child care assistance and prioritize  
38 child care assistance for different eligibility categories in  
39 order to manage within appropriated and available monies.  
40 Priority of children on the waiting list shall start with those  
41 families at one hundred per cent of the federal poverty level  
42 and continue with each successive ten per cent increase in the  
43 federal poverty level until the maximum allowable federal  
44 poverty level of one hundred sixty-five per cent. Priority  
45 shall be given regardless of time spent on the waiting list.

1 J. The department shall establish criteria for denying,  
2 reducing or terminating child care assistance that include:

3 1. Whether there is a parent, legal guardian or caretaker  
4 relative available to care for the child.

5 2. Financial or programmatic eligibility changes or  
6 ineligibility.

7 3. Failure to cooperate with the requirements of the  
8 department to determine or redetermine eligibility.

9 4. Hours of child care need that fall within the child's  
10 compulsory academic school hours.

11 5. Reasonably accessible and available publicly funded  
12 early childhood education programs.

13 6. Whether an otherwise eligible family has been  
14 sanctioned and cash assistance has been terminated pursuant to  
15 chapter 2 of this title.

16 7. Other circumstances of a similar nature.

17 8. Whether sufficient monies exist for the assistance.

18 K. Families receiving child care assistance under  
19 subsection D or F of this section are also subject to the  
20 following requirements for such child care assistance:

21 1. Each child is limited to no more than sixty cumulative  
22 months of child care assistance. The department may provide an  
23 extension if the family can prove that the family is making  
24 efforts to improve skills and move towards self-sufficiency.

25 2. Families are limited to no more than six children  
26 receiving child care assistance.

27 3. Copayments shall be imposed for all children receiving  
28 child care assistance. Copayments for each child may be higher  
29 for the first child in child care than for additional children  
30 in child care.

31 L. The department shall review each case at least once a  
32 year to evaluate eligibility for child care assistance.

33 M. THE DEPARTMENT SHALL REPORT ON DECEMBER 31 AND JUNE 30  
34 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL  
35 NUMBER OF FAMILIES WHO APPLIED FOR CHILD CARE ASSISTANCE AND THE  
36 TOTAL NUMBER OF FAMILIES WHO WERE DENIED ASSISTANCE UNDER THIS  
37 SECTION BECAUSE THE PARENTS, LEGAL GUARDIANS OR CARETAKER  
38 RELATIVES WHO APPLIED FOR ASSISTANCE WERE NOT CITIZENS OR LEGAL  
39 RESIDENTS OF THE UNITED STATES OR WERE NOT OTHERWISE LAWFULLY  
40 PRESENT IN THE UNITED STATES.

41 N. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE,  
42 RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN.

1           ~~M.~~ 0. Notwithstanding section 35-173, monies  
2           appropriated for the purposes of this section shall not be used  
3           for any other purpose without the approval of the joint  
4           legislative budget committee.

5           ~~N.~~ P. The department shall refer all child care subsidy  
6           recipients to child support enforcement and to local workforce  
7           services and provide information on the earned income tax  
8           credit.

9           Sec. 6. Intent

10           The people of this state approve this measure to override  
11           the governor's veto of House Bill 2030, forty-seventh  
12           legislature, first regular session.

13           2. The Secretary of State shall submit this proposition to the voters  
14           at the next general election as provided by article IV, part 1, section 1,  
15           Constitution of Arizona.